

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

employment on that date. In his February 2, 2012 narrative statement, appellant stated that he developed pain in his middle back, right shoulder and neck while distributing and boxing mail. He noted that he boxed and distributed mail for 450 Postal Service mailboxes and 380 other customers. Appellant stated that he moved a rolling container weighing 200 to 400 pounds, sorted up to 200 pounds of catalogs and magazines and up to 250 parcels per day. He also distributed up to 2,500 letters into mailboxes. Dr. John Tollerson, an osteopath, diagnosed upper back pain on January 26, 2012.

In a letter dated February 14, 2012, OWCP requested additional factual and medical information from appellant. On March 8, 2012 Dr. Camden Kneeland, an anesthesiologist, noted appellant's complaints of mid-back pain which began up to two years earlier while working at the employing establishment. He diagnosed chronic pain, myofascial pain and displacement of thoracic intervertebral disc without myelopathy. In a report dated March 18, 2012, Dr. Kneeland diagnosed chronic pain resulting from myofascial pain. He stated, "It is quite possible that [appellant] suffered a myofascial sprain or strain at work and that this has persisted despite adequate time for healing. It is rare, but not medically unreasonable, to see chronic myofascial pain resulting from a nontraumatic event. This pain may persist for years, if not indefinitely. In my opinion, [appellant's] current work duties can exacerbate and maintain his chronic pain state."

Appellant underwent an magnetic resonance imaging (MRI) scan of his thoracic spine on March 21, 2012 which demonstrated multiple mid thoracic disc herniations at T2-3, T3-4, T4-5 and T5-6. On April 2, 2012 a physician's assistant completed a note.

By decision dated April 13, 2012, OWCP found that appellant, a federal employee, filed a timely claim, that the implicated duties occurred at work and that a medical condition was diagnosed. However, it found that he had not submitted sufficient medical opinion evidence to establish a causal relationship between his implicated employment duties and his diagnosed medical condition.

Appellant requested a review of the written record by an OWCP hearing representative on May 1, 2012. In a note dated April 24, 2012, Dr. Kneeland stated that appellant's myofascial pain resulted from and was exacerbated by his repetitive upper body lifting activities at work. He stated that repetitive use or overuse of affected muscle could result in myofascial pain. Dr. Kneeland concluded, "In my opinion, there is little doubt that [appellant's] pain is related to his work duties."

By decision dated August 23, 2012, an OWCP hearing representative found that the record did not contain the necessary medical opinion evidence to establish a causal relationship between appellant's diagnosed thoracic spine pathology and his implicated work factors and that he therefore failed to meet his burden of proof.

### **LEGAL PRECEDENT**

OWCP's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."<sup>2</sup> To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.<sup>3</sup>

### **ANALYSIS**

Appellant has provided factual evidence of the duties of his position of postmaster including distributing mail. He submitted medical evidence of herniated thoracic discs and a diagnosis of myofascial pain. Further, appellant submitted a statement from Dr. Kneeland attributing appellant's chronic myofascial pain to his employment duties. The Board, however, finds that appellant has not submitted the necessary medical evidence to establish a causal relationship between his diagnosed medical conditions and his employment duties to meet his burden of proof in establishing an occupational disease claim.

The narrative medical reports consist of diagnoses of pain from Dr. Tollerson and Dr. Kneeland. The Board has held that the mere diagnosis of "pain" does not constitute the basis for payment of compensation.<sup>4</sup> As these reports do not contain the diagnosis of a specific medical condition, the reports are not sufficiently detailed to meet appellant's burden of establishing an occupational disease claim.

Appellant also submitted an MRI scan report including the findings of multiple herniated disc in his thoracic spine. This report is not sufficient to meet his burden of proof as there is no history of injury listing his employment duties and no opinion on the causal relationship between his duties and his diagnosed condition.

Appellant also submitted a report from a physician's assistant. However, as this note was not signed by the physician it has no probative value in establishing his claim.<sup>5</sup> The reports of a

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<sup>2</sup> 20 C.F.R. § 10.5(q).

<sup>3</sup> *Lourdes Harris*, 45 ECAB 545, 547 (1994).

<sup>4</sup> *Robert Broome*, 55 ECAB 339 (2004).

<sup>5</sup> *Merton J. Sills*, 39 ECAB 572 (1988).

physician's assistant are entitled to no weight as a physician's assistant is not a "physician" as defined by section 8101(2) of FECA.<sup>6</sup>

The Board finds that appellant has not submitted the necessary medical diagnosis and opinion evidence to meet his burden of proof. Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that the medical evidence is not sufficiently detailed and well reasoned to establish that appellant sustained a diagnosed back condition as a result of his employment duties and that therefore he has failed to meet his burden of proof in establishing an occupational disease claim.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the August 23, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 17, 2013  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>6</sup> *J.M.*, 58 ECAB 303 (2007).